

Comparison of IDEA '97 to H.R. 1350 as Passed by Congress – November 19, 2004

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY. (a) IN GENERAL- A local educational agency is eligible for assistance under this part for a fiscal year if such agency demonstrates to the satisfaction of the State educational agency that it meets each of the following conditions:</p> <p>(1) CONSISTENCY WITH STATE POLICIES- The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.</p> <p>(2) USE OF AMOUNTS- (A) IN GENERAL- Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and -- (i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities; (ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and (iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.</p> <p>(B) EXCEPTION- Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to -- (i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel; (ii) a decrease in the enrollment of children with disabilities; (iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child -- (I) has left the jurisdiction of the agency;</p>	<p>SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY. (a) IN GENERAL.--A local educational agency is eligible for assistance under this part for a fiscal year if such agency submits a plan that provides assurances to the State educational agency that the local educational agency meets each of the following conditions:</p> <p>(1) CONSISTENCY WITH STATE POLICIES.--The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.</p> <p>(2) USE OF AMOUNTS.-- (A) IN GENERAL.--Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and-- (i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities; (ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and (iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.</p> <p>(B) EXCEPTION.--Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to-- (i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel; (ii) a decrease in the enrollment of children with disabilities; (iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child-- (I) has left the jurisdiction of the agency;</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or</p> <p>(III) no longer needs such program of special education; or</p> <p>(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.</p> <p>(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS-</p> <p>(i) Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which amounts appropriated to carry out section 611 exceeds \$4,100,000,000, a local educational agency may treat as local funds, for the purpose of such clauses, up to 20 percent of the amount of funds it receives under this part that exceeds the amount it received under this part for the previous fiscal year.</p> <p>(ii) Notwithstanding clause (i), if a State educational agency determines that a local educational agency is not meeting the requirements of this part, the State educational agency may prohibit the local educational agency from treating funds received under this part as local funds under clause (i) for any fiscal year, only if it is authorized to do so by the State constitution or a State statute.</p>	<p>(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or</p> <p>(III) no longer needs such program of special education; or</p> <p>(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.</p> <p>(C) ADJUSTMENT TO LOCAL FISCAL EFFORT IN CERTAIN FISCAL YEARS.--</p> <p>(i) AMOUNTS IN EXCESS.--Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 611(f) exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.</p> <p>(ii) USE OF AMOUNTS TO CARRY OUT ACTIVITIES UNDER ESEA.--If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965.</p> <p>(iii) STATE PROHIBITION.--Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 616, the State educational agency shall prohibit the local</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA- Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed --</p> <ul style="list-style-type: none"> (i) the number of children with disabilities participating in the schoolwide program; multiplied by (ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by (II) the number of children with disabilities in the jurisdiction of that agency. <p>(3) PERSONNEL DEVELOPMENT- The local educational agency --</p> <ul style="list-style-type: none"> (A) shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 653(c)(3)(D); and (B) to the extent such agency determines appropriate, shall contribute to and use the comprehensive system of personnel development of the State established under section 612(a)(14). <p>(4) PERMISSIVE USE OF FUNDS- Notwithstanding paragraph (2)(A) or section 612(a)(18)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:</p> <ul style="list-style-type: none"> (A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN- For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services. 	<p>educational agency from reducing the level of expenditures under clause (i) for that fiscal year.</p> <p>(iv) SPECIAL RULE.--The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i).</p> <p>(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.-- Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed--</p> <ul style="list-style-type: none"> (i) the number of children with disabilities participating in the schoolwide program; multiplied by (ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by (II) the number of children with disabilities in the jurisdiction of that agency. <p>(3) PERSONNEL DEVELOPMENT.--The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, subject to the requirements of section 612(a)(14) and section 2122 of the Elementary and Secondary Education Act of 1965.</p> <p>(4) PERMISSIVE USE OF FUNDS.--</p> <ul style="list-style-type: none"> (A) USES.--Notwithstanding paragraph (2)(A) or section 612(a)(17)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities: <ul style="list-style-type: none"> (i) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.--For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services. (ii) EARLY INTERVENING SERVICES.--To develop and implement

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(B) INTEGRATED AND COORDINATED SERVICES SYSTEM- To develop and implement a fully integrated and coordinated services system in accordance with subsection (f).</p> <p>(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS- In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency --</p> <p>(A) serves children with disabilities attending those schools in the same manner as it serves children with disabilities in its other schools; and</p> <p>(B) provides funds under this part to those schools in the same manner as it provides those funds to its other schools.</p>	<p>coordinated, early intervening educational services in accordance with subsection (f).</p> <p>(iii) HIGH COST EDUCATION AND RELATED SERVICES.--To establish and implement cost or risk sharing funds, consortia, or cooperatives for the local educational agency itself, or for local educational agencies working in a consortium of which the local educational agency is a part, to pay for high cost special education and related services.</p> <p>(B) ADMINISTRATIVE CASE MANAGEMENT.--A local educational agency may use funds received under this part to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is needed for the implementation of such case management activities.</p> <p>(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.--In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency--</p> <p>(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and</p> <p>(B) provides funds under this part to those charter schools--</p> <p>(i) on the same basis as the local educational agency provides funds to the local educational agency's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and</p> <p>(ii) at the same time as the agency distributes other Federal funds to the agency's other public schools, consistent with the State's charter school law.</p> <p>(6) PURCHASE OF INSTRUCTIONAL MATERIALS.--</p> <p>(A) IN GENERAL.--Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, a local educational agency that chooses to coordinate with the National</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(6) INFORMATION FOR STATE EDUCATIONAL AGENCY- The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (16) and (17) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.</p> <p>(7) PUBLIC INFORMATION- The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.</p> <p>(b) EXCEPTION FOR PRIOR LOCAL PLANS-</p> <p>(1) IN GENERAL- If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.</p>	<p>Instructional Materials Access Center, when purchasing print instructional materials, shall acquire the print instructional materials in the same manner and subject to the same conditions as a State educational agency acquires print instructional materials under section 612(a)(23).</p> <p>(B) RIGHTS OF LOCAL EDUCATIONAL AGENCY.--Nothing in this paragraph shall be construed to require a local educational agency to coordinate with the National Instructional Materials Access Center. If a local educational agency chooses not to coordinate with the National Instructional Materials Access Center, the local educational agency shall provide an assurance to the State educational agency that the local educational agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.</p> <p>(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.--The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.</p> <p>(8) PUBLIC INFORMATION.--The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.</p> <p>(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.--The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.</p> <p>(b) EXCEPTION FOR PRIOR LOCAL PLANS.--</p> <p>(1) IN GENERAL.--If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY- Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until it submits to the State educational agency such modifications as the local educational agency deems necessary.</p> <p>(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY- If, after the effective date of the Individuals with Disabilities Education Act Amendments of 1997, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), or there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.</p> <p>(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY- If the State educational agency determines that a local educational agency or State agency is not eligible under this section, the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.</p> <p>(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE-</p> <p>(1) IN GENERAL- If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.</p> <p>(2) ADDITIONAL REQUIREMENT- Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection</p>	<p>(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.-- Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until the local educational agency submits to the State educational agency such modifications as the local educational agency determines necessary.</p> <p>(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.-- If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this title are amended (or the regulations developed to carry out this title are amended), there is a new interpretation of this title by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, then the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.</p> <p>(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.--If the State educational agency determines that a local educational agency or State agency is not eligible under this section, then the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.</p> <p>(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.--</p> <p>(1) IN GENERAL.--If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.</p> <p>(2) ADDITIONAL REQUIREMENT.--Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>to the attention of the public within the jurisdiction of such agency.</p> <p>(3) CONSIDERATION- In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.</p> <p>(e) JOINT ESTABLISHMENT OF ELIGIBILITY-</p> <p>(1) JOINT ESTABLISHMENT-</p> <p>(A) IN GENERAL- A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.</p> <p>(B) CHARTER SCHOOL EXCEPTION- A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless it is explicitly permitted to do so under the State's charter school statute.</p> <p>(2) AMOUNT OF PAYMENTS- If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(g) if such agencies were eligible for such payments.</p> <p>(3) REQUIREMENTS- Local educational agencies that establish joint eligibility under this subsection shall --</p> <p>(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and</p> <p>(B) be jointly responsible for implementing programs that receive assistance under this part.</p> <p>(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES-</p> <p>(A) IN GENERAL- If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall --</p>	<p>public within the jurisdiction of such agency.</p> <p>(3) CONSIDERATION.--In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.</p> <p>(e) JOINT ESTABLISHMENT OF ELIGIBILITY.--</p> <p>(1) JOINT ESTABLISHMENT.--</p> <p>(A) IN GENERAL.--A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency will be ineligible under this section because the local educational agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.</p> <p>(B) CHARTER SCHOOL EXCEPTION.--A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless the charter school is explicitly permitted to do so under the State's charter school law.</p> <p>(2) AMOUNT OF PAYMENTS.--If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.</p> <p>(3) REQUIREMENTS.--Local educational agencies that establish joint eligibility under this subsection shall--</p> <p>(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and</p> <p>(B) be jointly responsible for implementing programs that receive assistance under this part.</p> <p>(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.--</p> <p>(A) IN GENERAL.--If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall--</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(i) not apply to the administration and disbursement of any payments received by that educational service agency; and</p> <p>(ii) be carried out only by that educational service agency.</p>	<p>(i) not apply to the administration and disbursement of any payments received by that educational service agency; and</p> <p>(ii) be carried out only by that educational service agency.</p> <p>(B) ADDITIONAL REQUIREMENT.--Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).</p> <p>(f) EARLY INTERVENING SERVICES.--</p> <p>(1) IN GENERAL.--A local educational agency may not use more than 15 percent of the amount such agency receives under this part for any fiscal year, less any amount reduced by the agency pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.</p> <p>(2) ACTIVITIES.--In implementing coordinated, early intervening services under this subsection, a local educational agency may carry out activities that include--</p> <p>(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and</p> <p>(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.</p> <p>(3) CONSTRUCTION.--Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under this part.</p> <p>(4) REPORTING.--Each local educational agency that develops and maintains coordinated, early intervening services under this subsection shall annually report to the State educational agency on--</p> <p>(A) the number of students served under this subsection; and</p> <p>(B) the number of students served under this subsection who subsequently receive special education and related services under this title during the preceding 2-year period.</p> <p>(5) COORDINATION WITH ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.--Funds made available to carry out this subsection may be</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
	<p>used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.</p> <p>(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.-- (1) IN GENERAL.--A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local educational agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency, as the case may be-- (A) has not provided the information needed to establish the eligibility of such local educational agency or State agency under this section; (B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a); (C) is unable or unwilling to be consolidated with 1 or more local educational agencies in order to establish and maintain such programs; or (D) has 1 or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children. (2) MANNER AND LOCATION OF EDUCATION AND SERVICES.--The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State educational agency considers appropriate. Such education and services shall be provided in accordance with this part.</p> <p>(h) STATE AGENCY ELIGIBILITY.--Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that-- (1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(B) ADDITIONAL REQUIREMENT- Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).</p> <p>(f) COORDINATED SERVICES SYSTEM-</p> <p>(1) IN GENERAL- A local educational agency may not use more than 5 percent of the amount such agency receives under this part for any fiscal year, in combination with other amounts (which shall include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for children and families, including children with disabilities and their families.</p> <p>(2) ACTIVITIES- In implementing a coordinated services system under this subsection, a local educational agency may carry out activities that include –</p> <p>(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;</p> <p>(B) service coordination and case management that facilitates the linkage of individualized education programs under this part and individualized family service plans under part C with individualized</p>	<p>(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.</p> <p>(i) DISCIPLINARY INFORMATION.--The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from 1 school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>service plans under multiple Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (supplemental security income);</p> <p>(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this Act; and</p> <p>(D) interagency personnel development for individuals working on coordinated services.</p> <p>(3) COORDINATION WITH CERTAIN PROJECTS UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965- If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 and a coordinated services project under this part in the same schools, such agency shall use amounts under this subsection in accordance with the requirements of that title.</p> <p>(g) SCHOOL-BASED IMPROVEMENT PLAN-</p> <p>(1) IN GENERAL- Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in section 651(b) and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4) in that public school.</p> <p>(2) AUTHORITY-</p> <p>(A) IN GENERAL- A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.</p> <p>(B) RESPONSIBILITY OF LOCAL EDUCATIONAL AGENCY- If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of oversight of all activities</p>	

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.</p> <p>(3) PLAN REQUIREMENTS- A school-based improvement plan described in paragraph (1) shall --</p> <ul style="list-style-type: none"> (A) be designed to be consistent with the purposes described in section 651(b) and to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subparagraphs (A) and (B) of subsection (a)(4), who attend the school for which the plan is designed and implemented; (B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with paragraph (4)(B); (C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and (D) ensure that all children with disabilities receive the services described in the individualized education programs of such children. <p>(4) RESPONSIBILITIES OF THE LOCAL EDUCATIONAL AGENCY- A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall --</p> <ul style="list-style-type: none"> (A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan; (B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B); (C) establish -- <ul style="list-style-type: none"> (i) criteria that shall be used by such local educational agency in the selection of an eligible school under subparagraph (A); (ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum -- 	

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;</p> <p>(II) special education and general education teachers of such public school;</p> <p>(III) special education and general education administrators, or the designee of such administrators, of such public school; and</p> <p>(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and</p> <p>(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this part to carry out this subsection;</p> <p>(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;</p> <p>(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such manner, and accompanied by such information as such local educational agency shall reasonably require; and</p> <p>(F) establish procedures for approval by such local educational agency of a school-based improvement plan designed under this subsection.</p> <p>(5) LIMITATION- A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.</p> <p>(6) ADDITIONAL REQUIREMENTS-</p> <p>(A) PARENTAL INVOLVEMENT- In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.</p> <p>(B) PLAN APPROVAL- A local educational agency may approve a school-based improvement plan of a public school within the</p>	

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>jurisdiction of such agency for a period of 3 years, if --</p> <ul style="list-style-type: none"> (i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and (ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan. <p>(7) EXTENSION OF PLAN- If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.</p> <p>(h) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY-</p> <p>(1) IN GENERAL- A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that the local education agency or State agency, as the case may be –</p> <ul style="list-style-type: none"> (A) has not provided the information needed to establish the eligibility of such agency under this section; (B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a); (C) is unable or unwilling to be consolidated with one or more local educational agencies in order to establish and maintain such programs; or (D) has one or more children with disabilities who can best be served by a regional or State program or service-delivery system designed to meet the needs of such children. <p>(2) MANNER AND LOCATION OF EDUCATION AND SERVICES- The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers</p>	

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>appropriate. Such education and services shall be provided in accordance with this part.</p> <p>(i) STATE AGENCY ELIGIBILITY- Any State agency that desires to receive a subgrant for any fiscal year under section 611(g) shall demonstrate to the satisfaction of the State educational agency that --</p> <p>(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and</p> <p>(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.</p>	<p>(j) STATE AGENCY FLEXIBILITY.--</p> <p>(1) ADJUSTMENT TO STATE FISCAL EFFORT IN CERTAIN FISCAL YEARS.--For any fiscal year for which the allotment received by a State under section 611 exceeds the amount the State received for the previous fiscal year and if the State in school year 2003-2004 or any subsequent school year pays or reimburses all local educational agencies within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the State educational agency, notwithstanding paragraphs (17) and (18) of section 612(a) and section 612(b), may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.</p> <p>(2) PROHIBITION.--Notwithstanding paragraph (1), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, or that the State needs assistance, intervention, or substantial intervention under section 616(d)(2)(A), the Secretary shall prohibit the State educational agency from exercising the authority in paragraph (1).</p> <p>(3) EDUCATION ACTIVITIES.--If a State educational agency exercises the authority under paragraph (1), the agency shall use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1), to support activities authorized under the Elementary and Secondary Education Act of 1965 or to support need based student or teacher higher education programs.</p> <p>(4) REPORT.--For each fiscal year for which a State educational agency</p>

IDEA '97 – P.L. 105-17	H.R. 1350 as Passed by Congress
<p>(j) DISCIPLINARY INFORMATION- The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.</p>	<p>exercises the authority under paragraph (1), the State educational agency shall report to the Secretary the amount of expenditures reduced pursuant to such paragraph and the activities that were funded pursuant to paragraph (3).</p> <p>(5) LIMITATION.--Notwithstanding paragraph (1), a State educational agency may not reduce the level of expenditures described in paragraph (1) if any local educational agency in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the local educational agency receive a free appropriate public education from the combination of Federal funds received under this title and State funds received from the State educational agency.</p>